

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

05 NOV 29 AM 8:43

-----  
UNITED STATES OF AMERICA

Plaintiff

-VS-

GUSTAVO URDANETA

Defendant  
-----

:  
:  
: CASE NO. 5:05 CR 131  
:  
:  
:

:  
:  
: ORDER ACCEPTING PLEA AGREEMENT  
: AND JUDGMENT AND NOTICE OF  
: HEARING  
:

UNITED STATES DISTRICT JUDGE LESLEY WELLS

This case is before the Court on a Report and Recommendation filed by United States Magistrate Judge James S. Gallas regarding the plea hearing and plea agreement of Gustavo Urdaneta which was referred to the Magistrate Judge with the consent of the parties.

On 16 March 2005, the government filed a one-count indictment against Gustavo Urdaneta for conspiracy to possess with the intent to distribute and distribution of a controlled substance in violation of 21 U.S.C. § 846. On 14 April 2005, a hearing was held in which Gustavo Urdaneta entered a plea of not guilty before Magistrate Judge James S. Gallas.

On 20 September 2006, the government filed a one-count supplemental information against Gustavo Urdaneta for use of a communication facility to facilitate a drug felony in violation of 21 U.S.C. § 843(b). On 26 September 2006, a hearing was held in which Gustavo Urdaneta entered a waiver of indictment and entered a plea of guilty to Count One of the Supplemental Information before Magistrate Judge James S. Gallas and Magistrate Judge Gallas issued a Report and Recommendation ("R&R") concerning whether the plea should be accepted and a finding of guilty entered. Magistrate Gallas filed his R&R on 27 September 2006.

Neither party submitted objections to the Magistrate Judge's R&R in the ten days after it was issued.

On de novo review of the record, the Magistrate Judge's R&R is adopted. Gustavo Urdaneta is found to be competent to enter a plea. He understands his constitutional rights. He is aware of the charges and of the consequences of entering a plea. There is an adequate factual basis for the plea. The Court finds the plea was entered knowingly, intelligently, and voluntarily. The plea agreement is approved.

Therefore, Gustavo Urdaneta is adjudged guilty of Count One of the Supplemental Information, in violation of 21 U.S.C. § 843(b).

Sentencing will be:

**16 January 2007 at 10:30 a.m.**

**Courtroom 19-A  
19th Floor the United States District Court  
801 West Superior Avenue  
Cleveland, Ohio 44113**

IT IS SO ORDERED.

  
UNITED STATES DISTRICT JUDGE

Dated: 28 November 2006